



U.S. Department of Justice

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April 27, 2024

BY CM/ECF

The Hon. Ellen L. Hollander
U.S. District Court Judge
U.S. Courthouse
101 W. Lombard Street
Baltimore, Maryland 21201

Re: *United States v. Jacky McComber*
Crim. No. ELH-21-036

Dear Judge Hollander:

I am writing in response to the Court's request that I identify the page cites for the quotation from the transcript of the sentencing hearing in *United States v. Atif Malik*, Crim. No. JKB-16-0324, which appeared at page 35 of ECF # 431, our supplemental sentencing memo. That quotation came from pages 118-119 of that transcript. I apologize for the oversight, and will attach copies of the relevant pages.

Very Truly Yours,



Jefferson M. Gray

cc: All counsel (by ECF)

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.)
) CRIMINAL NO.:
 ATIF BABAR MALIK,) 1:16-cr-00324-JKB
)
 Defendant.)

SENTENCING
BEFORE THE HONORABLE JAMES K. BREDAR

September 11, 2018
Baltimore, Maryland

For the Plaintiff:

Jefferson M. Gray, Esquire
Sean R. Delaney, Esquire
Assistant U.S. Attorneys

For the Defendant:

Michael E. Lawlor, Esquire
William C. Brennan, Jr., Esquire
Nicholas G. Madiou, Esquire
Brennan, McKenna & Lawlor

Proceedings recorded by mechanical stenography,
transcript produced by computer.

Patricia G. Mitchell, RMR, CRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

1 charge. The defendant is convicted of multiple acts of
2 violating the statute prohibiting kickbacks as applied in his
3 area of work, his profession. He's convicted of offenses in
4 relation to the health care system and how it is funded and
5 the government's participation in that funding. He's
6 convicted of fraud in that context. He's been convicted of
7 effectively stealing from the people of the United States by
8 virtue of not paying his fair share of the income tax that
9 everyone owes.

10 The third factor for the Court to take into account
11 is the seriousness of the offense, the need to promote respect
12 for the law, and the need to provide just punishment. Crimes
13 themselves are all serious in their own right but this matter,
14 this factor I take to invite the Court to reflect on exactly
15 how the offenses were committed and what the defendant's
16 overall scheming was relative to other versions of this
17 offense as it is committed, unfortunately, on a somewhat
18 regular basis in our society. How else does one gauge
19 seriousness of the offense? The crimes themselves, of course,
20 are all serious, but are there circumstances present here that
21 suggest that these were even more serious than normal? The
22 Court's conclusion is that there are some circumstances here
23 that are very troubling in that regard.

24 Early in the sentencing hearing, the Court focused
25 attention on this civil lawsuit that was filed that named

1 Ms. Decker and others. The Court is troubled by its
2 conclusion that this is an example of a party employing the
3 civil justice system for some purpose very different from that
4 which it was designed for, and that is that the defendant is
5 involved in the prosecution of this lawsuit at the same time
6 that he's fully aware of his own deep involvement in serious
7 fraudulent misconduct. What in God's name was going on with
8 the effort to file suit himself in these circumstances? I'm
9 left with the conclusion that he was going to use, he was
10 going to weaponize the civil justice system to his benefit,
11 that that was the objective. That's a grievous escalation of
12 misconduct designed to protect and cover tracks and throw
13 authorities off the trail, and most significantly, dissuade
14 witnesses from telling what they know and reporting misconduct
15 that has occurred in their presence.

16 Other circumstances that are troubling, the abuse of
17 trust that is implicit whenever a medical doctor starts making
18 decisions about patient care and treatment and referrals and
19 the obtaining of lab data and so forth based on factors other
20 than what is in the best interest of the patient.

21 Unquestionably that happened here. When these kickbacks are
22 being paid and negotiated and obtained to the extent that they
23 were here, the financial interest has come to predominate as
24 opposed to the medical interest of the patient, that's a
25 serious aggravator.